(1)S.B.CIVIL WRIT PETITION NO.3292/2004
(Ramniwas Swarankar v. State of Rajasthan & Ors.)

(2)S.B.CIVIL WRIT PETITION NO.3294/2004
(Mohd. Yusuf v. State of Rajasthan & Ors.)

DATE OF ORDER :: 23rd January, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. S.D.Purohit, for the petitioners.
Mr. B.L.Tiwari, Dy.G.A.

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On revision of pension as a consequent to revision of pay scales under Rajasthan Civil Services (Revised) Pay Scales Rules, 1996 the Government of Rajasthan by an order dated 21.3.1998 prescribed two modes for payment of arrears to the retired government servants below the age of 70 years as follows:-

> "(a)the amount of arrear for the period between 1.1.97 to 31.12.97 is to be paid in 60 monthly installments in addition to the regular pension or
> (b)at the option of the pensioner, the amount of arrear may be credited in General Provident Fund Account. The amount of arrears so credited in the General Provident Fund Account shall remain deposited upto 31.3.2003."

The petitioners adopted the first mode i.e. that the payment of arrears in 60 monthly instalments in addition to the regular pension. After drawing arrears the petitioners preferred these petitions for writ claiming interest on the arrears paid.

The contention of the petitioners is that the non-payment of interest to them on paid arrears is discriminatory as the interest is given to the retired government servants those adopted second mode of payment of arrears. According to counsel for the petitioners all the retired government servants below the age of 70 years form one class and, therefore, merely on the count of difference in mode of payment of arrears they cannot be discriminated with regard to payment of interest upon the amount of delayed payment of arrears.

A reply to the writ petitions is filed on behalf of the respondents in general defending their stand.

Heard counsel for the parties.

The Government of Rajasthan for the purpose of making payment of arrears accrued as a consequent to revision in pension by order dated 21.3.1998 prescribed two different modes for payment of arrears. The first mode that was adopted by the petitioners is of payment in 60 monthly instalments whereas the other mode is with regard to payment of arrears after 31.3.2003. In the first mode of payment the Government of Rajasthan paid the entire amount in 60 easy instalments that was completed prior to March, 2003

whereas in the second method the entire arrears were kept with Government of Rajasthan in its General Provident Fund Account and that was paid after 31.3.2003. The persons who adopted first mode were receiving monthly instalments of arrears with their pension month by month, therefore, there was no certainty of earning the interest, whereas the retired government servants who adopted second mode permitted the government to retain their amount of arrears in General Provident Fund Account upto 31.3.2003, received total arrears in one stroke and the amount of those persons being with government was either utilised by government or the government also earned interest on that by making investment of that amount, therefore, those persons also earned interest. After adopting a specific mode for payment of arrears the two categories of opties of different modes for payment of arrears are rightly classified and such classification is based on a rational and intelligible criteria.

Beside that the petitioners with their open eyes accepted the first mode of payment of arrears and, therefore, now it is not open for them to challenge the same or to claim interest thereupon. It is also pertinent to note that these petitions for writ are filed by the petitioners after drawing the entire arrears. If the petitioners were having any grievance with regard to discrimination in mode of

payment of arrears then they should have challenged the same immediately on introduction of different modes of payment.

In result of discussion above, I do not find any illegality or error on part of Government of Rajasthan in not paying interest to the petitioners against the arrears drawn by them in accordance with the order dated 21.8.1998.

Accordingly, these petitions for writ are dismissed with no order to costs.

(GOVIND MATHUR),J.

Kkm/ps.